

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

In re:	:	MDL Docket No. 4:03CV1507-WRW
	:	4:05CV00163
PREMPRO PRODUCTS LIABILITY LITIGATION	:	
	:	
LINDA REEVES	:	PLAINTIFF
	:	
v.	:	
	:	
WYETH, et. al.	:	DEFENDANTS

ORDER

Statute of Limitations

Pending is Defendant's Motion for Summary Judgment Re Statute of Limitations (Doc. No. 63). Plaintiff has responded (Doc. No. 105).

Essentially, Defendants make the same argument that was previously denied in the other bellwether case.¹ Following oral argument at the May 12, 2006 status conference, the motion was denied.² For the same reasons that were expressed in the status conference and subsequent order regarding *Rush v. Wyeth*, Defendant's Motion for Summary Judgment Re Statute of Limitations (Doc. No. 63) is DENIED.

Affirmative Defenses

Pending are Plaintiff's Motion for Summary Judgment Re: Comparative Negligence and Related Defenses (Doc. No. 56) and Motion for Summary Judgment Re: Affirmative Defenses (Doc. No. 66). Defendant has responded to both motions (Doc. Nos. 103, 99).

¹See *Rush v. Wyeth, et al.*, 4:05-CV-00497-WRW (E.D. Ark. 2005), Doc. No. 42.

²*Id* at Doc. No. 68.

The Motion for Summary Judgment Re: Comparative Negligence and Related Defenses (Doc. No. 56) is GRANTED IN PART and DENIED IN PART. Specifically, the motion is GRANTED as it relates to Defendant Wyeth's affirmative defenses 3, 6, and 7, because Defendant Wyeth withdrew those affirmative defenses.³ The motion is DENIED as it pertains to affirmative defenses 5 (comparative fault) and 10 (failure to mitigate).

The Motion for Summary Judgment Re: Affirmative Defenses (Doc. No. 66) is GRANTED IN PART and DENIED IN PART. Specifically, the motion is GRANTED as it relates to Wyeth affirmative defenses 2,⁴ 11, 23, 27. The motion is DENIED as it pertains to affirmative defenses 1, 4, 8, 13, 14, 17 and DENIED without prejudice as it pertains to Wyeth's affirmative defenses regarding punitive damages -- 32, 33, and 34.⁵

IT IS SO ORDERED this 8th day of June, 2006.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

³In a March 8, 2006 letter, Wyeth also withdrew affirmative defenses 9, 12, 25, 26, 28, 30, and 31 (*See* Doc. No. 66-3).

⁴Wyeth's withdrawal of affirmative defense 2 is limited to the statute of repose and not statute of limitations; so too is the granting of the motion.

⁵Incorrectly referred to as affirmative defenses 42-49 in Plaintiff's motion.